

Appl. No. 09/877,757
Amdt. Dated 08/15/2003
Reply to Office Action of 07/30/2003

REMARKS

In response to the Final office action dated May 15, 2003, Applicant filed an After Final Response on July 9. The Advisory Action dated July 30, 2003 stated that 'new issues' were introduced and the amendments were not entered. There is a lengthy file history in this application, including several office action responses, telephonic interview, and inventor declaration. The Applicant has committed considerable time, effort and expense to explain the invention and differentiate the present invention from all the cited references. The Applicant believes the record strongly supports the present invention and that the present invention is easily distinguished from the cited references.

Pursuant to a telephone conversation with the Office on Aug. 8 and Aug. 11, 2003, the Applicant's Attorney and Examiner finally reached a general agreement that the present invention is distinguished from the cited references, and in particular to Kocher, for establishing an atmospheric condition in the package that is different than ambient air outside the package. Claim 1 has been amended accordingly and re-consideration and allowance is respectfully requested for all claims.

The unentered amendments to the claims presented in the After Final Response of July 9 have been incorporated herein and should replace the claims of the After Final Response. However, the remarks and arguments presented in the After Final Response should be reviewed in conjunction with this RCE.

The presently amended claims in combination with the remarks of the After Final Response and the telephonic explanations distinguish the present invention which controls the atmospheric conditions of the respiring produce through the number and size of the microperforations -- wherein the microperforations are on a registered target area and the atmospheric condition of the packaging is different than the ambient air or external environment.

The Applicant would also like to clarify that the bag in claims 10 and 11 incorporate the term 'seal' which is more clearly described in the patent application and refers to the edges of the bag whether the bag is in an open or closed state.

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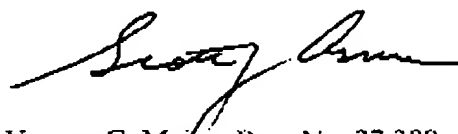
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These present Amendments should place the application in condition for allowance or in better condition for appeal and should be entered. No new matter is added. Applicant requests speedy reconsideration, and further requests that Examiner contact its attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

This RCE is being submitted in good faith and is a bona fide attempt to advance the application pursuant to 37 CFR 1.111.

[X] DEPOSIT ACCOUNT 500323 AUTHORIZATION - All necessary fees relating to the attached submittal, if any, are intended to be included. However, the Office is hereby authorized to charge any deficiency or credit any overpayment in the fees relating to the submittal to deposit account 500323, registered to Vernon C. Maine P.L.L.C., dba Maine & Asmus, contact telephone no. 603-886-6100.

Respectfully submitted,



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